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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/594,830

07/12/2007

Didier Lancesseur

P-1459

8392

68072

7590

02/08/2010

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SUITE 2100

LOUISVILLE, KY 40202

EXAMINER

WAGGONER, TIMOTHY R

ART UNIT

PAPER NUMBER

3651

NOTIFICATION DATE

DELIVERY MODE

02/08/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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| | | | |
|------------------------------|--|--|--|
| Office Action Summary | Application No. 10/594,830 | Applicant(s) LANCESSEUR ET AL. | |
| | Examiner TIMOTHY R. WAGGONER | Art Unit 3651 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/28/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-47, 49 and 52-65 is/are rejected.
- 7) ☒ Claim(s) 48, 50 and 51 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

SUPPLEMENTAL ACTION

DETAILED ACTION

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because figures 1-11 appear to be copies of three-dimensional renderings which due to the lack of sufficient contrast makes it impossible to identify the structures claimed. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 46 and 47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 46 and 47 depend upon a cancelled claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3651

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 32-45,49 and 52-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khan et al. USPN 5,791,515 in view of Nilson USPN 3,921,851.

(Re claim 32) Khan discloses a rotatable male component for insertion into a fixed diameter female member. The male and female components cooperate to form a number of chutes and incorporate features that limit the medication to pass through at a single time including the features as claimed by the present invention.

Khan does not disclose that the female component is separate from the container itself.

Nilson discloses a female element that cooperates with the male element to form chutes which are both inserted into the container being dispensed from.

It would be obvious to one skilled in the art to include a female component as taught by Nilson in to the invention of Khan because it allows khan to be used in containers with any neck design.

(Re claim 33) "a ring which is connected to said casing" (3 figure 1, Nilson).

(Re claim 34) "internal casing ... revolution of a cylindrical ..." (144 figure 11, Khan).

(Re claim 35) "upstream part of the internal casing is of a truncated cone shaped, hemispherical or parabolic type" (14 figure 1, Nilson).

(Re claim 36) "free space ... slightly greater than the smallest dimension of the object to be dispensed" (74 figure 14, Khan).

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(Re claim 37) "angle (alpha), in degrees, at the top of the circular sector of the first plane ... diameters ... objects" (52,54 figure 13, Khan).

(Re claim 38) "angle (beta), in degrees, at the top of the circular sector of the first plane ... diameters ... objects" (52,54 figure 13, Khan).

(Re claim 39) "second circular sector ... opposite the first circular sector" (figures 9,10, Khan).

(Re claim 40) "sum of angles ... at most 360 degrees" (52,54 figure 13, Khan).

(Re claim 41) "section that is greater than the smallest ... two shaped objects to be dispensed cannot pass through it" (figure 9, Khan).

(Re claim 42) "section that is greater than the smallest" (figure 9, Khan).

(Re claim 43) "planar lateral walls ... chute ... parallel" (figure 11, Khan).

(Re claim 44) "planar lateral walls ... chute concurrent" (figure 11, Khan).

(Re claim 45) "device comprises two chutes" (74 figure 11, Khan).

(Re claim 49) "casing ... revolution that is cylindrical ..." (figure 9, Khan).

(Re claim 52) "means for guidance in rotation that emerges from the opening shaped as an arc of a circle acts as an agitator" (150 figure 11).

(Re claim 53) "crown segment mounted on the means for guidance in rotation are beveled" (62 figure 11).

(Re claim 54) "mounted on the external wall of the casing ... semi-polygonal" (150 figure 11).

(Re claim 55) "bulk packaging container is formed by a casing and a cap ... connected by the other of its ends to the cap, which cap is capable of rotating" (110,96 figure 11).

(Re claim 56,57,58,59,60,61,62) "one or more agents for treating or removing ambient gaseous pollutant" (160,162 figure 11).

(Re claim 63-65) These claims are directed to the specific plastics used to created the device. As these are all well known in the art it does not define beyond the prior art.

Allowable Subject Matter

Claims 48,50,51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMOTHY R. WAGGONER whose telephone number is (571)272-8204. The examiner can normally be reached on Mon-Thu 8am-2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy R Waggoner/
Examiner, Art Unit 3651

TRW